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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,118	10/27/2003	Robert W. Pike JR.	50160/AW/W112	2571

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EXAMINER	
ROLLINS, ROSILAND STACIE	
ART UNIT	**PAPER NUMBER**
3739	

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/694,118	PIKE ET AL.	
	Examiner	Art Unit	
	Rosiland S. Rollins	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 May 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-18, 23-33 and 36-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abele et al. (US 5403311) in view of Mulier et al. (US 6016809). Abele et al. disclose a method for ablating tissue in or around the heart comprising introducing into the heart the distal end of a catheter wherein the catheter includes a needle electrode assembly at its distal end, the needle electrode assembly comprising a proximal tubing (30) and distal tubing (36), wherein the proximal tubing is more flexible than the distal tubing, the needle electrode being in a retracted position within the distal end of the catheter; introducing a distal end of the needle electrode into the tissue, including moving the needle electrode from its retracted position within the distal end of the catheter to an extended position outside the distal end of the catheter and infusing a fluid through the needle electrode. Abele et al. teach all of the limitations of the claims except the fluid being an electrically-conductive fluid and ablating the tissue after and/or during introduction of the fluid into the tissue. Mulier et al. teach a similar method and teach that it is old and well known in the art to provide an electrically conductive fluid through the electrode before or during ablation to displace blood in the vicinity of the electrode and to prevent overheating of the tissue. Therefore, it would have been

obvious to one of ordinary skill in the art at the time the invention was made to provide an electrically conductive fluid as taught by Mulier to displace blood in the vicinity of the electrode and to prevent overheating of the tissue.

Regarding claims 8-11 (see col. 2 lines 16-28) of Abele et al.

Regarding claims 15-18 It would have been obvious to one having ordinary skill in the art at the time the invention was made to select a saline solution comprising the amount of salt content as claimed, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claims 23-26, in column 5 lines 44-63 Mulier et al. disclose a flow control procedure but is moot as to the exact rate of fluid flow. Selecting the particular fluid flow rate as claimed would have been obvious to one of ordinary skill in the art at the time the invention was made, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claims 27-29, It would have been obvious to one having ordinary skill in the art at the time the invention was made to select a power level as claimed, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claims 30-32 see column 3 lines 41-54 of Mulier et al.

Regarding claims 36-40 see column 5 lines 24-43 of Mulier et al. Moreover, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a power level as claimed, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claims 41 and 42, see column 3 lines 56-67 of Mulier et al.

Claims 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abele et al. '311 and Mulier et al. '809 further in view of Stevens et al. (US 6866650). Abele et al. and Mulier et al. combined teach all of the limitations of the claims except the fluid comprising a radiographic contrast agent. Stevens et al. teach that it is old and well known in the art to provide a radiographic contrast agent during a surgical procedure to provide a means of locating the device and target tissue. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a radiographic contrast agent in the Abele et al. and Mulier et al. combined method to provide a means of locating the device and the target tissue during the procedure.

Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abele et al. '311 and Mulier et al. '809 further in view of Tu et al. (US 6033402). Abele et al. and Mulier et al. combined teach all of the limitations of the claims except taking the impedance measurement before, during and/or after the introduction of the electrode into the tissue and adjusting the flow rate as a result. Tu et al. teach that it is old and well known in the art to regulate the fluid flow rate based on signals representative of the tissue impedance as a means of optimizing the energy delivery of the device. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the impedance measurement and adjust the fluid flow rate as a result, particularly in view of the teaching of Tu et al. that such optimizes the energy delivery of the device.

Response to Arguments

Applicant's arguments filed 5/19/06 have been fully considered but they are not persuasive. Applicant argues that neither Abele nor Mulier teach or suggest the amended claim limitations. As pointed out in the rejection above, it is the Examiner's position that Abele does indeed disclose the limitations recited in the amended claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosiland S. Rollins whose telephone number is (571) 272-4772. The examiner can normally be reached on Mon.-Fri. 9:00 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rosiland S Rollins
Primary Examiner
Art Unit 3739